

MAY 01 1985

Mr. Warren D. Krebs  
Parr, Richey, Obrensky, and Morton  
225 West Main Street  
P.O. Box 666  
Lebanon, IN 46502

Dear Mr. Krebs:

Re: Gary Development Company, Inc.

This will acknowledge the receipt of your hand-delivered letter of April 16, 1985.

We have reviewed the information in our files concerning your client's hazardous waste activities. Copies of the relevant documents are enclosed. Based on the information the Division of Land Pollution Control has, it would seem that there has been poor communication between your client and you. It also seems that you have confused the roles and responsibilities of the U.S. Environmental Protection Agency (EPA) and the Indiana Environmental Management Board in implementing the Hazardous Waste Management Program established by the Resource Conservation and Recovery Act (42 USC 3251, et seq.).

Gary Development Company's previous attorney has admitted that hazardous waste was disposed of by your client after the effective date (December 19, 1980) of the Federal hazardous waste regulation (see January 24, 1984, letter from Mr. John M. Kyle, III). The U.S. EPA has informed your client (by letter dated February 8, 1984, to Mr. John M. Kyle, III) that your client was a regulated facility. Therefore, it should come as no surprise to your client that he be required to submit information to determine his compliance with the State's hazardous waste management rules.

You expressed your lack of knowledge concerning how a landfill can be "officially" classified as a hazardous waste disposal facility. We would direct your attention to 40 CFR 270.10, 270.13, and 270.7(b), as well as Section 3010 of the Resource Conservation and Recovery Act. It is our further understanding that your client has, in fact, submitted an EPA permit application (commonly called Part A) in which he certified that he did, in fact, operate a hazardous waste management facility.

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We would further point out that, in Indiana at the present time, it is the responsibility of the U.S. EPA to determine whether or not your client is required to have a permit for a hazardous waste management facility. The Indiana Environmental Management Board has only been delegated the authority to act in lieu of the U.S. EPA to enforce the interim status standards which are set out in 40 CFR 265. Your question concerning the "... right to appeal any initial administrative determination ..." must be addressed, in this instance, to the Regional Administrator.

In closing, let me make clear that all evidence to date supports the claim that the Gary Land Development Company, Inc., is regulated pursuant to both Federal and State hazardous waste management rules. Failure by your client to comply with all applicable requirements can only result in Federal and/or State enforcement actions which would subject your client to significant civil penalties.

Very truly yours,



Guinn Doyle, Chief  
Hazardous Waste Management Branch  
Division of Land Pollution Control

GPD/tr

Enclosures

cc: Mr. William Miner, U.S. EPA, Region V

Mr. Lawrence Hagen

bcc: Ms. Karyl Schmidt

Mr. Jeff Stevens

Mr. Thomas Russell

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